

HOUSE BILL REPORT

EHB 2519

As Amended by the Senate

Title: An act relating to duty-related death benefits for public safety employees.

Brief Description: Addressing duty-related death benefits for public safety employees.

Sponsors: Representatives Green, Hope, Ericks, Maxwell, Sullivan, Upthegrove, Carlyle, Conway, Simpson, Van De Wege, Kenney, Morrell, Hurst, Campbell and Kelley; by request of LEOFF Plan 2 Retirement Board.

Brief History:

Committee Activity:

Ways & Means: 1/19/10 [DP].

Floor Activity:

Passed House: 2/3/10, 93-3.

Passed Senate: 3/1/10, 46-0.

Brief Summary of Engrossed Bill

- Removes the 10-year service requirement in Law Enforcement Officers' and Fire Fighters' Retirement Plan 2 (LEOFF 2) and the Washington State Patrol Retirement System Plan 2 (WSPRS 2) for survivors of duty-related deaths to qualify for a survivor annuity.
- Removes the actuarial reduction for a joint and 100 percent survivor option applied to survivor annuities in LEOFF 2 and WSPRS 2 for survivors of duty-related death.
- Provides a minimum survivor annuity in LEOFF 2 and WSPRS 2 of 10 percent of final average salary for survivors of duty-related deaths.
- Increases the lump-sum, duty-related death benefit in all plans of LEOFF and WSPRS to \$214,000 and annually increases the lump sum by up to 3 percent per year.
- Exempts LEOFF and WSPRS duty-related death survivors from general provisions that halt workers' compensation pension benefits after remarriage.
- Requires (rather than permits as in current law) state higher education institutions to waive payment of all tuition, services, and activity fees for both the children and surviving spouses of any law enforcement officer, firefighter,

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or Washington State Patrol Officer that died or became totally disabled in the line of duty.

HOUSE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass. Signed by 22 members: Representatives Linville, Chair; Ericks, Vice Chair; Sullivan, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Chandler, Cody, Conway, Darneille, Haigh, Hinkle, Hunt, Hunter, Kagi, Kenney, Kessler, Pettigrew, Priest, Ross, Schmick and Seaquist.

Staff: David Pringle (786-7310).

Background:

State Retirement System Death and Disability Benefits.

The survivors of employees covered by many of the plans of the Washington retirement systems, as well as other state agency employees, are eligible for a \$150,000 lump-sum benefit in the event that the member dies as a result of injuries sustained in the course of employment. If the member belongs to the Public Employees' Retirement System (PERS), the Law Enforcement Officers and Fire Fighters Retirement System (LEOFF), the Teachers' Retirement System (TRS), the School Employees' Retirement System (SERS), the Public Safety Employees Retirement System (PSERS), the Washington State Patrol Retirement System (WSPRS), or the Volunteer Fire Fighters' and Reserve Officers' Relief and Pension System (VFFRORPS), then the benefit is paid from the plan. If the individual was a state, school district, or higher education employee that was not a member of one of the retirement systems listed above, then the benefit is paid as a sundry claim.

If a member of LEOFF Plan 2 or WSPRS Plan 2 dies prior to retirement and has either earned 10 or more years of service or is eligible to retire, the member's designated survivor may choose a monthly benefit actuarially reduced by a joint and 100 percent reduction. This is the same optional joint and 100 percent reduction that is one of the options available to members upon normal retirement. If a LEOFF Plan 2 or WSPRS Plan 2 member has completed fewer than 10 years of service, the member's survivor will receive a benefit equivalent to the member's accumulated contributions.

State Workers' Compensation Benefits.

Workers injured in the course of employment receive various industrial insurance benefits. If death results from the injury, the surviving spouse receives a monthly benefit ranging from 60 to 70 percent of the wages of the deceased worker. If a surviving spouse remarries, benefits are discontinued at the end of the month in which remarriage occurs. A surviving spouse who remarries may choose to receive a lump sum of 24 times the monthly rate, with some adjustments. If the surviving spouse does not choose to receive the lump sum and the remarriage ends in death, annulment, or dissolution, monthly benefits may be reinstated.

Most members of the Washington State Retirement Systems are covered by the same industrial insurance benefits as other workers; however, in the LEOFF system, only members of LEOFF Plan 2 are eligible for industrial insurance.

State Tuition and Education Benefits.

State institutions of higher education may waive all or a portion of tuition and fees for eligible students within certain limits. Categories of eligible students include the children of law enforcement officers or firefighters that died or became disabled in the line of duty. For these waivers, known as state-supported waivers, institutions receive general fund support to offset the tuition not collected from students as a result of granting the waivers. This authority to grant state-supported waivers is capped for each institution at a certain percentage of the total tuition revenue the institution collects. Within their respective percentage caps, each institution decides how to apportion its waiver authority among the various categories of state supported permissive waivers. Institutions also have authority to waive tuition on a space available basis for certain eligible persons. Student attendance under space-available waivers is not counted for budgetary purposes. In addition to state-supported waivers and space-available waivers, institutions also have authority to waive all or a portion of the tuition operating fee (not the building fee) for any student. These waivers are unsupported discretionary waivers for which the institution receives no state funding to make up for the foregone revenue.

Federal Public Safety Officer Death, Disability, and Education Benefits and Social Security Death Benefits.

Employees who meet the federal definition of "public safety officers," including some members of LEOFF, WSPRS, PERS, and PSERS, are also eligible under the federal Public Safety Officers Benefit Act of 1976 (PSOB) for an inflation indexed lump-sum death or catastrophic injury benefit of approximately \$312,000 in 2010. The PSOB also provides support for higher education to eligible spouses and children of qualified public safety officers that died or were disabled in the line of duty since 1996. The PSOB educational assistance (PSOEA) defrays tuition, fees, room and board, books, supplies, and other education-related costs. The maximum award for a full-time student is \$925 per month of class attendance for 2009. All PSOEA awards must, by law, be reduced by the amount of other governmental assistance that a student is eligible to receive.

Additional federal death benefits are available to survivors of state retirement system members covered by Social Security. The survivors of covered members may be eligible for a death benefit if they meet age, income, or other restrictions. The age eligibility for the Social Security death benefit is based on an age 65 eligibility for full benefits, and reduced benefits are available beginning at age 60. The size of the Social Security death benefit is dependent on the contributions the deceased made to Social Security during the member's career. Members of WSPRS and the majority of LEOFF members do not participate in Social Security.

Summary of Engrossed Bill:

State Retirement Systems Death and Disability Benefits.

The lump-sum death benefit for members of LEOFF Plan 2 and WSPRS Plan 2 is increased to \$214,000 and automatically adjusted each year by an amount equal to the Consumer Price Index for urban wage earners and clerical workers for the Seattle/Tacoma/Bremerton area up to a maximum of 3 percent per year. This applies to all members of LEOFF Plan 2 and WSPRS Plan 2 killed in the course of employment since January 1, 2009.

The 10 year service requirement for a survivor annuity and the joint and 100 percent survivor reduction are removed for survivors of LEOFF Plan 2 and WSPRS Plan 2 members that died in the line of duty. A minimum duty-related death survivor annuity of 10 percent of average final salary is established for LEOFF Plan 2 and WSPRS Plan 2. This applies to all future payments of benefits for LEOFF Plan 2 members that were killed in the course of employment since October 1, 1977, and WSPRS Plan 2 members killed in the course of employment since January 1, 2003.

State Workers' Compensation Benefits.

Workers' compensation benefits for surviving spouses of LEOFF Plan 2 and WSPRS Plan 2 members that died from duty-related causes continue after the remarriage of the survivors, and workers' compensation benefits for these survivors that were previously stopped due to remarriage resume.

State Tuition and Education Benefits.

State institutions of higher education must waive all tuition, service fees and activity fees for children and spouses of law enforcement officers, firefighters, and Washington State Patrol Officers, that die or become totally disabled in the line of duty while employed by any public law enforcement agency or full time or volunteer fire department in Washington.

The boards of higher education institutions must report to the Higher Education Coordinating Board or the State Board for Community and Technical Colleges on the cost of tuition and other fees waived under the act. The state boards must report these results annually to the appropriate fiscal and policy committees of the Legislature.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment removes the exception to the monthly worker's compensation allowance provisions for those allowances paid to the surviving spouse of a LEOFF 2 or WSPRS 2 member who was killed in the course of employment, so the allowance ceases upon remarriage of the surviving spouse as in current law. The optional lump sum payment payable upon remarriage is increased for these LEOFF 2 and WSPRS 2 survivors from an amount equal to 24 times the monthly allowance that the member was receiving at the time of remarriage to an amount equal to 36 times the monthly allowance.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill is about looking after the brave officers and troopers that look after our families. When the horrible Lakewood tragedy happened, many people felt like there was nothing they could do to help, but these changes will provide some help. Years of preparation went into many of the provisions of this bill. The LEOFF 2 Board (Board) had planned not to bring any bills to the 2010 Legislature with costs, but in the wake of the Lakewood tragedy, the Board reconsidered and put together the duty-related death benefit provisions that were studied in recent years, and that made sense this year. The LEOFF Plan 2 is on exceptionally solid financial footing – it is among the top two funded pension plans in the entire country. The provisions of this bill have modest pension costs, 10 basis points in total. Other provisions considered by the Board did not make it into this bill, such as federal PSOB heart-attack related provisions and ombudsmen programs. One recent duty-related death involved a member with only seven months of service, and without these changes his survivor will receive only a small cash-out of contributions rather than an annuity. The update to the \$150,000 death benefit has been recommended several times before this year, as has the workers' compensation change. The elimination of the remarriage provision dovetails with the elimination of remarriage provisions from all of the state pension systems long ago, and to the extent that the workers' compensation provision is a substitute for LEOFF Plan 1 duty disability and death benefits, the workers' compensation remarriage provision should be removed from LEOFF Plan 2 members. The Governor asked for ideas from organizations on what could be done for the survivors of law enforcement officers killed in the line of duty, and supports the proposal before the committee today. This is about taking care of the families of the officers that protect us and our families. From the Governor's task force came a set of reasonable suggestions for improvement to law enforcement death benefits. I understand why other employee groups would like similar enhancements, but these groups, as evidenced by 9/11, are different than everybody else. The workers' compensation benefit improvement is a big deal, as the current law has created a generation of spouses that cannot remarry without losing the very valuable pensions. We appreciate that the LEOFF Plan 2 Board included the Washington State Patrol in their recommendation, though we recognize that because of committee jurisdictions in less unusual times there would probably be a separate bill. These changes are long overdue. For the employers and colleagues of the individuals killed in the line of duty to also have to be concerned about the eligibility of the survivors for benefits just adds to the distress. We need to send a clear message that if something happens, the families will be taken care of. With this change, the widows and widowers of officers killed in the line of duty will be able to remarry without being victimized again. Seven officers have been killed in the line of duty in recent months, and seven spouses and 15 children left behind. Please choose to assist them because their spouses chose to protect their communities. A terrible blow was inflicted on the Lakewood police department. If I have to give my life in the service of my community, I don't want to worry that my family might not be taken care of. I face death on an everyday basis. Police and firefighters are unique – we go into danger when others flee, because that is our job. Our families must be taken care of in this minimal way. I only have five and one-half years in LEOFF Plan 2 and if I was to die in the line of duty my family would not qualify for an annuity benefit without these changes.

(Opposed) None.

Persons Testifying: Representative Green, prime sponsor; Steve Nelson, Law Enforcement Officers and Fire Fighters Plan 2 Retirement Board; John Lane, Office of the Governor; Jamie Daniels, Washington Council of Police and Sheriffs; Bill Hanson, Washington State Fraternal Order of Police; Rick Jensen, Washington State Patrol Troopers Association; Bret Farrar, Lakewood Police Department; Jolin Lowry; and Skeeter Manos, Lakewood Police Independent Guild.

Persons Signed In To Testify But Not Testifying: None.